IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1244 OF 2007

Shri.Sachin Ashok More ..Applicant

Vs.

State of Maharashtra ..Respondents

...

Mrs.Anita A.Agarwal advocate for applicant
Mr.V.B.Konde-Deshmukh A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MAY 03, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No. 110 of 2006 of Baramati City Police Station. The said case is under Sections 302 and 307 of IPC.

3. It is the prosecution case that the present applicant committed murder of one Abhijeet Bhosale by assaulting him with sword on account of previous enmity. The applicant has been named in the FIR. In the said incident, the complainant and two other persons sustained injuries and Abhijeet Bhosale

died in the said incident. There are also witnesses who state that the present applicant and other accused were armed with blood stained swords. The blood stained sword has been recovered at the instance of the present applicant.

4. It is the case of the applicant that he was not present at the time of incident and he had been falsely involved on account of previous enmity. It was contended that the applicant at the relevant time was deputed for duty at Karhe river. Reliance is also placed on the affidavits of some persons to show that the applicant was on duty near Karhe river for giving red alert to the people on account of flood like situation.

5. Mrs.Agarwal, the learned advocate for the applicant has submitted that no witness has stated that the present applicant has assaulted the deceased. However, on perusal of the complaint, it is seen that the complainant has stated that the present applicant along with 11 others came to the spot. Thereafter, he has stated that all the persons who had gathered there, assaulted him, his son, his brother as well as Abhjeet Bhosale. Thus,

as per the complainant, the present applicant has clearly assaulted Abhijeet Bhosale. Thus, I find no merit in this submission.

6. As far as plea of alibi is concerned, it is an aspect which will have to be proved by the applicant during the trial by leading evidence.

7. Thereafter, it was contended on behalf of the applicant that witnesses Sushil and Vaibhav cannot be relied upon because though it was the prosecution case that the applicant was armed with sword and he assaulted the witnesses, the witnesses have suffered C.L.Ws. and not incised wounds. No doubt, these witnesses have sustained C.L.Ws. However, the complainant has clearly implicated the applicant so also material on record clearly implicates the applicant.

8. It was further contended that Sushil could not have been eye witness to the incident as on reading his statement, it appears that he must have reached the place of the incident after the incident was over. However, in view of the statements of the complainant and two eye witnesses, I am of the

opinion that there is sufficient material which implicates the applicant. Hence, I am not inclined to grant bail to the applicant.

9. Application is rejected.

[Smt.V.K.Tahilramani, J.]